

Mail Stop Interference  
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Paper 1  
Filed:  
July 18, 2006

UNITED STATES PATENT AND TRADEMARK OFFICE  

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES  

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THOMAS J. YORKEY  
Junior Party  
(Patent 5,645,060),

v.

MOHAMED K. DIAB, ESMAIEL KIANI-AZRBAY JANY  
and WALTER M. WEBER  
Senior Party  
(Application 09/111,604).

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Patent Interference No. 105,477  
(Technology Center 3700)  

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**DECLARATION - Bd.R. 203(d)<sup>1</sup>**

1        **Part A. Declaration of interference**

2        An interference is declared (35 U.S.C. § 135(a)) between the above-identified  
3 parties. Details of the application(s), patent (if any), reissue application (if any),  
4 count(s) and claims designated as corresponding or as not corresponding to the  
5 count(s) appear in Parts E and F of this DECLARATION.

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<sup>1</sup> "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1        **Part B. Judge managing the interference**

2        Administrative Patent Judge Jameson Lee has been designated to manage the  
3 interference. Bd. R. 104(a).

4        **Part C. Standing order**

5        A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this  
6 DECLARATION. The STANDING ORDER applies to this interference.

7        **Part D. Initial conference call**

8        A telephone conference call to discuss the interference is set for **1:00 p.m. on**  
9 **September 12, 2006** (the Board will initiate the call).

10       No later than **four business days** prior to the conference call, each party shall  
11 file and serve (SO ¶¶ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;  
12 SO ¶¶ 104.2.1, 120 & 204) the party intends to file.

13       A sample schedule for taking action during the motion phase appears as Form 2  
14 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to  
15 the conference call and to agree on dates for taking action. A typical motion period  
16 lasts approximately eight (8) months. Counsel should be prepared to justify any  
17 request for a shorter or longer period.

1       **Part E. Identification and order of the parties**

2                               Junior Party

3       Named inventors:       Thomas J. Yorkey, San Ramon, CA

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5       Involved Patent:       5,645,060, granted July 8, 1997  
6                               based on application 08/490,315, filed  
7                               June 14, 1995

8       Title:               Method and apparatus for removing artifact and  
9                               Noise from pulse oximetry

10      Assignee:            Nellcor Puritan Bennett Incorporated

11                               Senior Party

12      Named Inventors:    Mohamed K. Diab, Laguna Niguel, CA  
13                               Esmael Kiani-Azarbay Jany, Laguna Niguel, CA  
14                               Walter M. Weber, Los Angeles, CA

15  
16      Involved Application: 09/111,604, filed July 7, 1998

17      Title:               Signal processing apparatus

18  
19      Assignee:            Comerica Bank-California

20      The senior party is assigned exhibit numbers 1001-1999. The junior party is  
21 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO ¶ 154.2.1. The senior party  
22 is responsible for initiating settlement discussions. SO ¶ 126.1.

23



**Part G. Heading to be used on papers**

The following heading must be used on all papers filed in this interference, see

SO ¶ 106.1.1:

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1        **Part H. Order form for requesting file copies**

2        When requesting copies of files, use of SO Form 4 will greatly expedite  
3 processing of the request. Please attach a copy of Parts E and F of this  
4 DECLARATION with a hand-drawn circle around the patents and applications for which  
5 a copy of a file wrapper is requested.

/s/Jameson Lee  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER  
Copy U.S. Patent 5,645,060  
Copy of claims of Application 09/111,604

Revised 3 January 2006

cc (via overnight delivery):

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